IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.149 OF 2006
WITH
CIVIL APPLICATION NO.192 OF 2006

Rasiklal Odhavji Shah. ..Appellant.

V/s.

Smt.Bhartiben Mathuradas Lathia & Ors. ..Respondents.

Mr.K.K.Malpathak i/b Sandesh Deshpande & Pradeep S. Pillai for appellant.

Mr.Sadesh D. Patil for respondents.

CORAM: A.M.KHANWILKAR,J

DATE : FEBRUARY 28, 2006.

P.C. :

1. Heard counsel for the parties.

2. Admit.

3. Mr.Patil waives notice for respondents.

4. As short question is involved, appeal is taken up for hearing for final disposal forthwith, by consent.

5. Twofold reliefs were claimed by the appellants before the trial Court by way of interim order during the pendency of the suit. One of the

relief has been granted by the trial Court restraining the defendants from dispossessing the plaintiff from the suit property till decision of the suit. Grievance in this appeal is limited to refusal of the injunction claimed by the plaintiff against the defendants to forbear from alienating the suit property during the pendency of the suit.

6. In so far as that relief is concerned, though refused by the trial court, counsel appearing for the respondent Nos.2 and 4 states on instruction that none of the defendants have any intention to dispose of the suit property for the time being. Even if, they so desire in future, they will put the prospective purchaser to notice about pendency of the proceedings between the parties, to make it clear that the transaction will be subject to the outcome of the pending suit and that no equities can be claimed later on. The learned counsel states that he can make such statement even on behalf of the respondents No.1 and 3, though he has not filed Vakalatnama on their behalf, as all the defendants are related. However, to avoid any controversy at later stage, in my opinion, accepting the statement made by the learned counsel for the respondent Nos.2 and 4, respondent Nos.1 and 3 will abide by the

condition referred to above while dealing with the suit property so as to create third party interest therein in any manner. Besides, it will be open to the appellant to register lis pendence which will secure the interest of the appellant.

7. Appeal as well as civil application disposed of in the above terms.

8. Having regard to the nature of controversy involved, trial Judge may consider to expedite hearing of the matter, if no other High Court Expedited or Supreme Court Expedited is pending before it.

9. This order is passed in the presence of Mr.Nilesh M.Lathia, respondent No.2 and Mr.Hemish Lathia respondent No.4, who are in the court and instructed the advocate for respondents.